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File No. O Medical 50

Legal Deptt

A **BRANCH**

Subject:— Opinions under the Bombay Medical Act 1912

R-7/E

O. Medical/50

File No.

Gen. 194 e.

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1916

Office of the R.L.A.

Bombay Medical
Act, 1912
Section 19 (2)
Provisos to
to rules 26, 39
and 40 of the Rule
made under -

SEEN and returned.

2. The view taken by L.S.G. &P.H. Department is correct. The provisos to rules 26 & 40 of the Rules of the Bombay Medical Council inserted by G.D. Notification No.2099/33, dated the 19th November 1945 clearly provide for the printing and preserving in the form of printed minutes the public proceedings of the meetings of the Council as and the munutes of the executive committee which were type written during the war and six months thereafter. Consequently the proposal made by the Medical Council is in order and no amendment of the rules would be necessary.

Sd/-
19-4

Remembrancer of Legal Affairs.

M.R.D.
9-6-56
C.4

U.R. to L.S.G.,&.P.H.D.,No. 5377,dated the 20th April 1950.

Office of the R.L.A.

Bombay Medical Act, 1912.
Schedule.

Reference to central provinces.

In view of clause 16(1)(a) of the Adaptation of Laws Order, 1950" Central Provinces" in entyr 8, in para, 1, of the Schedule to the Bombay Medical Act, 1912 will have to be read as "Madhya Pradesh". No amendement in this behalf would be necessary .

Sd/-
27-7

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 10681 ,dated the 29th July 1950.

M.R.D.
9-6-56
C.4

Bombay Medical Act, 1912

Schedule Reference to 'Bengal'

Office of the R.L.A.

The reply to the question is in the affirmative. In view of the India(Adaptation of Existing Laws) Order, 1947 "Bengal" in entry 3 in para. 1 of the Schedule to the Bombay Medical Act, 1912 will have to be read as "West Bengal".

Sd/-
21-7

Remembrancer of Legal Affairs.

U.R. to L.S.H. and P.H.D. ,No. 10361 dated the 22nd July 1950.

M.R.D.
9-6-56
C.4

Office of the R.L.A.

Bom. Medical Act, 1912 Sec. 5.

The proposal that the Medical Council should obtain the previous approval of Government to proposals for the revision of the Registrar's payscale is inconsistent with section 5 of the Bom. Medical Act, 1912 and would not be legally feasible. The previous executive orders of Government quoted in that note cannot have the effect of curtailing the power of the Medical Council to fix the salary and allowances of the Registrar which is unconditional under section 5.

Sd/-
22-7

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H. No. 10414 dated the 24th July 1950.

-M.R.D.
9-6-36
C.4

Office of the R.L.A.

Bombay Medical Act, 1912

Bombay Medical Practitioners' Act, 1938.

P. and S.D. Notification No. 4530/46-F dated 20-6-1949

Government Notification, P.and S.D. No.4530/46-F, dated the 20th June 1949, being issued in exercise of Statutory powers vested in Government under the Extra Provincial Jurisdiction, 1947, has a statutory effect and the view taken by the Medical Council that the notification is an administrative order is not correct.

The notification has the effect of modifying the Bombay Medical Act, 1912, and the Bombay Medical Practitioners' Act, 1938, in their application to the Baroda State area. Since the Medical Practitioners and Vaidyas or Hakims registered under the Baroda Medical Act, 1933, would by virtue of the first proviso to the ~~notifie~~ notification be deemed to be registered under the Bombay Medical Act, 1912 and the Bombay Medical Practitioners's Act, 1933, respectively, they would be entitled to registration under those Acts without any application or payment of fees by them and the question whether these Medical Practitioners and the Vaidyas or Hakims possess the requisite qualifications for registration under those Acts would not arise. They would further be entitled to all all rights and privileges to which the other registered Practitioners under those Acts are entitled. ~~Persons~~ persons other than the Medical Practitioners and Vaidyas or Hakims whose names stood registered under the Baroda Medical Act, 1939, would not be entitled to registration either under the Bombay Medical Practitioners' Act, 1938 or the Bombay Medical Act, 1912. They would, however, be exempted from the provisions of sections 32,33 and 34 of the Bombay Medical Practitioners' Act, 1938. The question of registration of these persons would not therefore arise.

No further notification or order of Government in respect of the right of the Medical Practitioners and the Vaidyas or Hakims registered under the Baroda Medical Act,1933, for the purposes of their registration

P.T.O

under the Bombay Medical Practitioners' Act, 1938
of the Bombay Medical Act, 1912, would be necessary.

Sd/-
21-7

Remembrancer of Legal Affairs.

R. to L.S.G. and P.H.D., No.10330 dated the
22nd July 1950.

H.R.D.
8-6-56
C.A.

Bombay Medical Act, 1912.
Bombay Medical Practitioners Act, 1938.

P.and S.D. Notification No. 4530/46-F dated 20-6-1949.

Office of the R.L.A.

The legal position has been very clearly explained in R.L.A.'s opinion No. 10390 dated 22-7-1950; and it is unnecessary to raise the issue of qualifications specified under the Bombay Medical Act, 1912. Under that Act persons possessing any of the qualifications specified in the schedule thereto are entitled to be registered (vide sec. 7(2)). The Bombay Medical Practitioners' Act, 1938, on the other hand deals with the registration of practitioners of the Ayurvedic and Unani Tibbi Systems of medicine. The effect of the first proviso to para (iii) of clause 4 of the Administration of Baroda State Order as inserted by G.M., P.&S.D.No. 4530/46-F, dated 20th June 1949 therefore, is that all the persons whose names were registered under the Baroda Medical Act, 1933, excluding only vaidyas and hakims are deemed to be medical practitioners registered under the Bombay Medical Act, 1912. Whether some of these practitioners possess foreign degrees not specified in the Schedule to the Act is not material. The suggestion made by the Executive Committee of the Bombay Medical Council and referred to in the second para of the Registrar's letter at p.1 ante is not legally feasible.

Sd/-
3-1-51

Remembrancer of Legal Affairs.

M.R.D.
8-6-56
C.4

U.R. to L.S.G. &P.H.D. No. 251 dated the 4th January 1951.